

Health Plan Coverage of Prescriptions During Emergencies or Disasters

Prescription drugs are typically authorized on a “days supply” basis where the amount of medication is dispensed for a set number of days, typically a “30-day supply.” “Refill too soon” policies used by many health benefit plans restrict people from refilling prescription medications until a few days before the end of their current supply. This Act allows people in counties declared a disaster or under a state of emergency to refill current prescriptions under their health benefit plan without “refill too soon” limitations if their prescriptions were originally filled or refilled within a period 29 or days or less from the declaration of an emergency or disaster.

Submitted as:
North Carolina
Session Law 2007-133
Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Waive Limits on Refilling
2 Prescriptions During a State of Emergency or Disaster.”

3
4 Section 2. [*Coverage for Extra Prescriptions During a State of Emergency or Disaster.*]

5 (a) All health benefit plans as defined in [insert citation], and any optional plans or
6 programs operating under [insert citation], and other stand-alone prescription medication plans
7 issued by entities that are licensed by the [Department] shall have, when an event described in
8 subdivision (b)(1) of this section occurs and the requirements of subdivisions (b)(2) and (b)(3) of
9 this section are satisfied, a procedure in place to waive time restrictions on filling or refilling
10 prescriptions for medication if requested by the covered person or subscriber. The procedure shall
11 include waiver or override of electronic “refill too soon” edits to pharmacies and shall include
12 provision for payment to the pharmacy in accordance with the prescription benefit plan and
13 applicable pharmacy provider agreement. The procedure shall enable covered people or
14 subscribers to:

15 (1) Obtain one refill on a prescription if there are authorized refills remaining, or
16 (2) Fill one replacement prescription for one that was recently filled, as prescribed
17 or approved by the prescriber of the prescription that is being replaced and not contrary to the
18 dispensing authority of the dispensing pharmacy.

19 (b) All entities subject to this section shall authorize payment to pharmacies for any
20 prescription dispensed in accordance with subsection (a) of this section regardless of the date upon
21 which the prescription had most recently been filled by a pharmacist, if all of the following
22 conditions apply:

23 (1) The [commissioner of insurance] issues a [Bulletin Advisory] notifying all
24 insurance carriers licensed in this state of a declared state of disaster or state of emergency in this
25 state as defined under [insert citation]. The [Department] shall provide a copy of the [Bulletin] to
26 the [state board of pharmacy].

27 (2) The covered person requesting coverage of the refill or replacement prescription
28 resides in a county that:

29 a. Is covered under a proclamation of state of disaster issued by the
30 [governor] or by a resolution of the [General Assembly] under [insert citation], or a declaration of
31 major disaster issued by the President of the United States under the Robert T. Stafford Disaster
32 Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as amended; or

33 b. Is declared to be under a state of emergency in a proclamation issued by
34 the [governor] under [insert citation].

35 (3) The prescription medication is requested within [29 days] after the origination
36 date of the conditions stated in subdivision (b)(1) of this section.

37 (c) The time period for the waiver of prescription medication refills may be extended in
38 [30-day increments] by an order issued by the [Commissioner]. Additional refills still remaining
39 on a prescription shall be covered by the insurer as long as consistent with the orders of the
40 prescriber or authority of the dispensing pharmacy.

41 (d) This section does not excuse or exempt an insured or subscriber from any other terms
42 of the policy or certificate providing coverage for prescription medications.

43 (e) Quantity limitations shall be consistent with the original prescription and the extra or
44 replacement fill may recognize proportionate dosage use prior to the disaster.

45 (f) No requirements additional to those under the pharmacy provider agreement or the
46 prescription benefit plan may be placed upon the provider for coverage of the replacement fill or
47 extra fill.

48 (g) Nothing in this section is intended to affect the respective authority or scope of practice
49 of prescribers or pharmacies.

50
51 Section 3. [*Severability*.] [Insert severability clause.]

52
53 Section 4. [*Repealer*.] [Insert repealer clause.]

54
55 Section 5. [*Effective Date*.] [Insert effective date.]